

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY
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VIAHART, LLC,	:	
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Plaintiff,	:	1:20-cv-9943-GHW
	:	
-v-	:	<u>ORDER</u>
	:	
CREATIVE KIDS ONLINE, LLC, <i>et al.</i> ,	:	
	:	
Defendants.	:	
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GREGORY H. WOODS, United States District Judge:		

On June 21, 2024, Defendants submitted a document that appears to be a revised set of proposed jury instructions. Dkt. No. 259. No letter or other explanation accompanies the document, and the document itself does not show what changes, if any, were made to the parties' May 3, 2024 proposed jury instructions. Dkt. No. 228. Defendants' June 21 submission is deficient.

At the November 13, 2023 conference, the Court specifically requested that the parties annotate any disputed portion of the joint proposed jury instructions "with reference to the relevant precedent or other support" for the proposed alternative instruction and "why it is that you are making that proposal." Nov. 13, 2023 Conference Tr. at 35–36.

At the June 14, 2024 final pretrial conference, the Court noted that the parties' May 3, 2024 joint proposed jury instructions, which were signed by counsel, failed to provide the legal authority and explanation for Defendants' proposed changes to the joint proposed instructions that the Court had directed the parties to provide. June 14, 2024 Conference Tr. at 30–31. Despite Defendants' failure to comply with the Court's prior directions, the Court permitted Defendants to untimely provide their supporting arguments for their proposed changes to the jury instructions and directed that Defendants submit a short supplemental brief that explains each of the proposed changes already identified in a footnote in the parties' May 3, 2024 proposed instructions. *Id.* at 37.


Following the June 14, 2024 conference, the Court issued a written order that reiterated this direction: “Defendants are also directed to submit a supplemental brief providing the legal authority and explanation for each of their proposed changes to the parties’ joint proposed jury instructions by June 21, 2024. For the avoidance of doubt, Defendants may only brief the proposed changes identified in a footnote in the parties’ joint submission at Dkt. No. 228.” Dkt. No. 248.

Defendants’ June 21 submission fails to meet these instructions. It is not a supplemental brief. It also fails to identify what, if any, legal authority or explanation was added by Defendants, and gives no comfort that Defendants have stayed within the bounds of the proposed changes they had already identified in the May 3, 2024 proposed instructions.

Accordingly, Defendants are ordered to submit their supplemental brief, as ordered by the Court on June 14, 2024, forthwith and in any case no later than June 24, 2024. Failure to timely submit the supplemental brief may result in the imposition of sanctions.

SO ORDERED.

Dated: June 21, 2024
New York, New York



GREGORY H. WOODS
United States District Judge